

MAR 21 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Hideki Itaya, Jason Dominik Hool, Javier
Urena, Fredrick Spears, Osamu Ohno and
Kantaro Maruoka

SERIAL NUMBER: 09/849,857

FILED: May 3, 2001

FOR: A DIAGNOSTIC INSTRUMENT WITH
OVERLAPPING CAROUSELS

PATENT

ART UNIT NO.: 1743

EXAMINER: Jan M. Ludlow

ATTORNEY DOCKET NO.:
HCDI1785

Corral de Tierra, California
March 21, 2007

I hereby certify that this Response to Restriction Requirement and the documents referred to as enclosed therein are being deposited to either via fax to (571) 273-8300 or with the United States Postal Service on March 21, 2007 in an envelope addressed to Box Non-Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Douglas A. Chaikin

Typed or printed name of person mailing paper or fee

Signature of person mailing paper

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR §1.137(b) AND A
REQUEST FOR REFUNDS OF FEES**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

To the Honorable Commissioner of Patents and Trademarks:

Dear Sir:

1. This application became abandoned on March 9, 2007 as a result of a failure to respond to the Office Action of May 5, 2006 in a timely manner.
2. This petition is filed within 24 months after the grace period provided in 37 CFR §1.362(e).

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3. This application became abandoned unintentionally. On July 20, 2006, the undersigned completed and filed and deposited in a local mailbox in Salinas, CA, the attached Response C. I am the only one in my office to file such matters and I have personal knowledge of filing the Response C on July 20, 2006. It was a Thursday and I completed the Response and mailed it in our local pick up in my area, which I commonly use. I never received the return postcard, so I have nothing other than the certificate of mailing on the Response C. I now very seldom use the postal service because of problems exactly like this and I normally now file everything electronically or via fax. I then wait for the electronic receipt before putting the file away because I can only then be sure that the document is actually filed. However, in this case, I was still using the postal service on a regular basis.
4. Petition Fee – 37 CFR §1.17(m) -- \$1500.00.
5. Previous Payment of fees: All previous fees have been paid in full.
6. Verification:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is

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directed.

Statement of Facts:

On or about May 5, 2006, an Office Action was mailed from Office and was received by me within a week. I then immediately contacted my client, May 10, 2006, via email and began the process of preparing a response. On July 18, 2006, I received final comments from my Client (email attached Ex. A) and revised the Response and on July 20, 2006, I filed the Response C. I am prepared to, under a protective order or similar agreement of confidentiality agreement so as to protect attorney-client privileged information, disclose my entire line of emails with the client, documenting the preparation of this response and establishing a time line for the preparation of the response.

Additionally, as may be noted by the entire history of this file, each response has been made in a timely manner and has been complete and in compliance with the rules. The Application was filed in 2001 and the client and the undersigned have both diligently followed the rules for an extended period of time in this case.


I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 21, 2007, at Corral de Tierra,
California.

Douglas A. Chaikin

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Given that Applicant has previously followed all the rules regarding timeliness of filing the application and has in fact filed the Response C, previously on July, 20 2006, as stated in the Certificate of Mailing and as evidenced by Exhibit A, it is respectfully submitted that the application be revived immediately and that no charges relating to the abandonment or late be charged to this client. Again, Applicant is willing under a protective order or confidentiality agreement disclose, in camera, the entire line of correspondence establishing a time line for the preparation of the Response C and establishing the likelihood of the mailing and filing the Response at the time when the undersigned swears that it was done.

Respectfully submitted,
PENINSULA IP GROUP
A Professional Law Corporation

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